

Commission on Common Ownership Communities
Montgomery County, Maryland
100 Maryland Avenue, Room 330
Rockville, MD 20850

Stonebridge Homeowners Association,
Complainant

vs.

Case No. 06-10

Robert Deck,
Respondent

Order of Dismissal

The Complainant filed this complaint on January 20, 2010, alleging generally that "the home is in deplorable condition" and asking generally "that the property be returned to proper condition." The accompanying documentation submitted by the Complainant shows that beginning in 2008, the Complainant had notified the Respondent that "trim [needs] repair and painting," that "front exposed brick foundation requires cleaning and/or painting," that "you have an untagged vehicle in the driveway," and "that the gutter on your house is falling down and your porch needs wood replacement."

The Commission staff notified the Respondent of the complaint, citing the above specific allegations; Respondent did not answer, and the hearing panel issued an order of default, which Respondent also ignored.

In order to determine whether Respondent had taken any action to deal with the alleged violations, the Commission staff visited the property (14 Country Creek Court, North Potomac, Maryland) on February 18, 2011, and took photographs. The photographs and the staff's report have been included in the record and reviewed by the hearing panel.

The staff's report and photographs tend to show, and the hearing panel has reason to believe, that the Respondent has repaired the specific items alleged to be in violation.

While it is true that the complaint generally alleged that the lot was in "deplorable condition," and the staff's report and photographs tend to substantiate this, the panel cannot consider proceeding to a final judgment that would include findings and orders on any violations other than the ones specifically documented in the complaint. Section 10B-9(b) of the Montgomery County Code (2010)

provides that a party cannot file a dispute with the Commission until it first makes a good faith attempt to exhaust its procedures and remedies under the relevant association documents. Our own procedures for the exhaustion of remedies require that the Complainant notify Respondent of specific violations and offer the Respondent a hearing on them. The record before us does not show that Respondent was ever notified of any violations other than the ones cited above, and therefore he could not have been offered a hearing with Complainant on them. If Complainant believes that the lot contains other violations, it must follow its own rules and exhaust its own remedies before seeking relief with the Commission. Once it does so, it is free to file a new complaint concerning those violations with the Commission.

Based on the record before us, the complaint, as filed, now appears to be moot and should be DISMISSED WITH PREJUDICE. If either party disagrees with this conclusion, that party must file its objections with proper proof with the staff no later than close of business, April 8, 2011. Otherwise this complaint shall stand dismissed without further action by the panel as of the close of business, April 8, 2011.

Date Issued: March 30, 2011

Elizabeth Molloy, Panel Chair

cc: Linda Wildman, IKO Realty; Robert Deck.